

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 891 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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STATE OF GUJARAT

Versus

SHAH AJAYKUMAR CHHOTALAL

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Appearance:

MR SA PANDYA, APP for Appellant.

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CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 09/03/99

ORAL JUDGEMENT

The State has preferred present appeal against the judgment and order of learned Judicial Magistrate, First Class, Limbdi on 21.7.98, in Criminal Case No.1944/97, which was registered against the present respondent under sec.85(1)(3), 66(1)(B) of Bombay Prohibition Act.

2. Police has investigating the matter and submitted chargesheet in the court below, wherein, respondent-accused has pleaded not guilty. To prove the case, prosecution has examined various witnesses and also relied upon the documentary evidences. The court below after recording necessary evidence and after hearing the learned counsel for the respective parties, convicted the

present respondent-accused for the offence under sec.85(1)(3) and 66(1)(B) of the Bombay Prohibition Act. It is against this order, State has preferred this appeal on the ground that the sentence which has been awarded by the court below is not just and proper, and sought for interference.

3. First of all, I have called the record and proceedings. Thereafter I have heard the learned APP Mr.S.A.Pandya, and also gone through the oral and documentary evidences which has been shown to me by the learned APP. I have also gone through the order and judgment of the court below alongwith the admission purshis. The court below has recorded detailed satisfactory reasons, and reasons are such which is required to be taken into consideration while awarding the sentence. Hence, the order passed by the court below is proper and not required to be interfered with.

4. I am not discussing the evidence of each witness in detail in view of the observations made by the Hon'ble Apex Court in the case of STATE OF KARNATAKA VS. HEMAREEDY reported in AIR 1981 SC 1417 which reads as under:-

"..... This Court has observed in Girija Nandini Devi V. Bigendra Nandini Chaudry (1967) 1 SCR 93: (AIR 1976 SC 1124) that it is not the duty of the appellate court when it agrees with the view of the trial court on the evidence to repeat the narration of the evidence or to reiterate the reasons given by the trial Court expression of general agreement with the reasons given by the Court the decision of which is under appeal, will ordinarily suffice."

5. In the facts and circumstances of the case, I do not find it necessary to interfere with the judgment and order passed by the court below. Appeal is, therefore, required to be rejected, and is accordingly rejected.

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